

REMARKS

Independent Claims 5 and 13 are allowed.

Claims 3, 6-9, 14-17, 19, 22-26, and 30-48 are pending.

Claims 1, 2, 4, 10, 11, 12, 18, 20, 21, and 27-29 have been canceled as their limitations have been added to allowed claims 5 and 13 and amended claims 22 and 30.

Claims 3, 6, 14, 19, 23, and 31-35 have been amended to correctly depend from claims which now have allowable material.

Claim 22 has allowable material and has been rewritten in independent form to include limitations from claims 18, 20 and 21 from which it depends.

Claim 30 has allowable material and has been rewritten in independent form to include limitations from claims 27-29 from which it depends.

The rejections of claims 41-48 are traversed.

The Applicants respectfully assert that the amendments to Claims 3, 6, 14, 19, 22, 23, and 30-35 and incorporated by reference in any claims depending therefrom, are not narrowing amendments made for a reason related to the statutory requirements for a patent that will give rise to prosecution history estoppel. *See Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 56 U.S.P.Q. 1865, 1870 (Fed. Cir. 2000).

I. CLAIM OBJECTIONS

The Examiner objected to Claims 22 and 30 as being dependent from a rejected base claim. The Examiner states that these claims are allowable if rewritten in independent form including all the limitations of the base claims 18 and 27 respectively and any intervening claims. The Applicants respectfully assert that the objections to Claims 22 and 30 are traversed by the above amendments.

II. REJECTION UNDER 35 U.S.C. § 102(b)

The Examiner rejected Claims 1-4, 6-12, 14-21, and 31-48 under 35 U.S.C. § 102(b) as being disclosed by a publication by *London* (POPCORN-A Paradigm for Global Computing) (hereafter "*London*").

Claims 1, 2 and 4 have been canceled as their limitations have been incorporated into Claim 5 which contains allowable material. Claims 3 and 6 have been amended to depend from Claim 5 which contains allowable material. Claims 7-9 now depend from claims with allowable material. Claims 10-12 have been canceled as their limitations have been incorporated into Claim 13 which contains allowable material. Claim 14 has been amended to depend from Claim 13 which contains allowable material. Claims 15-17 now depend from claims with allowable material. The Examiner's rejections of Claims 1-4 and 6-9 have been rendered moot by these amendments and cancellations.

Claims 18-48 were added in the previous office action. Claims 22 and 30 have allowable material. Claim 22 is amended to include the limitations of Claims 18, 20 and 21. Claim 19 is amended to depend from Claim 22 which has allowable material. Claim 23 is amended to depend from Claim 22 which now contains allowable material. Claims 23-26 now depend from claims with allowable material. Claims 18, 20, and 21 have been canceled. Therefore, the Applicants respectfully assert that the rejections of Claims 18-26 under 35 U.S.C. § 102(b) as being disclosed by *London* are traversed.

Claim 30 is amended to include the limitations of Claims 27-29. Claims 27-29 have been canceled. Claim 31 is amended to depend from Claim 30 which now has allowable material. Claim 32 is amended to correct a typographical error and now correctly depends from Claim 31. Claims 33 and 34 depend from claims that now have allowable material. Therefore, the Applicants respectfully assert that the rejections of Claims 27-29 have been rendered moot and the rejection of claims 30-34 under 35 U.S.C. § 102(b) as being disclosed by *London* are traversed.

Claim 35 is amended to depend from Claim 5 which now has allowable material. Claims 36-40 now depend from claims that now have allowable material. Therefore, the Applicants respectfully assert that the rejections of Claims 35-40 under 35 U.S.C. § 102(b) as being disclosed by *London* are traversed.

Claims 41-48 are new claims that were added in the last office action. The Examiner did not specifically address these claims except to group them with Claims 10-12, 14-21, 23-29, and 31-48 and reject them all using the same arguments he used relative to Claims 1-4 and 6-9 by stating "regarding Claims 10-12, 14-21, 23-29, and 31-48, the rejection of claims 1-4 and 6-9 under 35 U.S.C. §102(b) (paragraphs 2.1-2.8 above) applies fully." The Examiner rejects Claims 41-48 citing whole sections of *London* with no more specificity. The Applicant would like to remind the Examiner that the M.P.E.P. § 707.07(e) states that "an omnibus rejection of the claim on the references and for the reasons of record is stereotyped and usually not informative and should therefore be avoided." The Applicant asserts that the Examiner has failed to specifically point out where in *London* the invention of Claims 41-48 is found. Rather, the Examiner has cited whole sections of *London* to reject Claims 1-4 and 6-9 and then has said that Claims 41-48 are rejected for the same reasons as Claims 1-4 and 6-9.

Additionally, according to the M.P.E.P. § 2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d. 1051, 1053 (Fed. Cir. 1987).

Claim 41 is an independent claim directed to a software agent operating within a distributed processing system wherein the software agent comprises a program of instructions for performing 6 method steps. Claims 42 and 43 add further limitations to the invention of Claim 41. The Examiner does not specifically show where *London* discloses the invention of Claims 41-43. The Examiner has failed to establish a *prima facie* case of anticipation under 35 U.S.C. § 102(b). Therefore, the

Applicants respectfully assert that the rejections of Claims 41-43 under 35 U.S.C. § 102(b) as being disclosed by *London* are traversed for the reasons stated above.

Claim 44 is an independent claim to a software agent operating within a server system managing a plurality of distributed devices coupled through a network for processing workloads for a distributed processing system, wherein the software agent comprises a program of instructions for performing 3 method steps. Claims 45-48 add further limitations to the invention of Claim 44. The Examiner does not specifically show where *London* discloses the invention of Claims 44-48. The Examiner has failed to establish a *prima facie* case of anticipation under 35 U.S.C. § 102(b). Therefore, the Applicants respectfully assert that the rejections of Claims 44-48 under 35 U.S.C. § 102(b) as being disclosed by *London* are traversed for the reasons stated above.

III. CONCLUSION

The Applicant has rewritten Claims 22 and 30 in independent form to include material allowed by the Examiner.

Claims 1, 2, 4, 10-12, 18, 20, 21, and 27-29 have been canceled and thus their rejections have been rendered moot.

Claims 3, 6, 14, 19, 23, and 31-35 are amended and now depend from claims which now have allowable material.

Claims 7-9, 14-17, 24-26, 33, and 36-40 depend from claims that now have allowable material.

The rejections of Claims 41-48 under 35 U.S.C. § 102(b) as being disclosed by *London* are traversed.

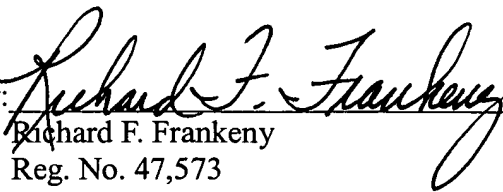
The Applicants, therefore, respectfully assert that Claims 3, 5-9, 13-17, 19, 22-26, 30-48 are now in condition for allowance and request an early allowance of these claims.

Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,

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